

Fraternal beneficiary society; state-sponsored reinsurance pool. A fraternal beneficiary society that conducts an insurance operation for its members in all 50 states does not lose its exempt status under section 501(c)(8) of the Code by participating in a state-sponsored reinsurance pool that protects participating insurers from excessive losses on major medical health and accident insurance.

Advice has been requested whether a fraternal beneficiary society exempt from Federal income tax under section 501(c)(8) of the Internal Revenue Code of 1954 will lose its exempt status by participating in a state-sponsored reinsurance pool.

The organization is a fraternal beneficiary society that conducts an insurance operation for its members in all 50 states. One type of insurance it makes available is major medical health and accident insurance.

The purpose of the state in establishing the reinsurance pool is to assure the availability of major medical health and accident insurance protection for substandard risks. Insurers participating in the pool are assessed on a pro-rata basis for health insurance losses arising as to all covered individuals in the state. The pool thus serves to protect the participating insurers from excessive losses on this type of insurance by spreading the losses among all participating organizations in the state that provide this type of insurance.

The amount each insurer pays to the reinsurance pool is determined according to the ratio of its premium income from this type of insurance to the aggregate of all participating insuring organizations' premium income from this type of insurance during a given period of time.

Section 501(c)(8) of the Code provides for the recognition of exemption of fraternal beneficiary societies, orders, or associations-

(A) Operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

Section 1.501(c)(8)-1(a) of the Income Tax Regulations includes the requirement that a fraternal beneficiary society have an established system for the payment to its members or their dependents of life, sick, accident, or other benefits.

The organization participates in the reinsurance pool and makes the agreed payments into it for protection against excessive losses. Although other insurers also participate in the pool and may derive a similar benefit from it, the purpose of the fraternal beneficiary society is to promote its own financial stability by participating in spreading the risk of loss in this manner. It undertakes participation, therefore, in the best interest of its members, and any benefit derived by other insurers from participation in the pooling arrangement is incidental to the accomplishment of the organization's exempt purpose and does not detract from the conclusion that it is operated for the exclusive benefit of its members.

Accordingly, the participation of the organization as described in a state-sponsored reinsurance pool furthers its exempt purposes and will not cause it to lose its tax exempt status under section 501(c)(8) of the Code.